THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.8029 OF 2006

Dt.21.4.2006

Between:

Smt.Sara Mehidi …Petitioner

And

Municipal Corporation of Hyderabad,

Rep. By its Commissioner, Hyderabad. …Respondent

ORDER:

Petitioner seeks to issue writ of mandamus declaring the impugned proceedings of the respondent bearing No.762/TP/MCH/ SD/2005, dt.1.4.2005 as illegal and arbitrary.

The petitioner is the absolute owner and possessor of the Plot bearing No.46, admeasuring 550 sq.yards in Sy.No.74/9 situated at East Marredpally Village, Secunderabad, having purchased the

same from the Seva Mandal Society. With a view to construct a residential house on the said plot, the petitioner has applied for the building permission for construction of ground + two upper floors. The respondent Corporation has rejected the application vide impugned proceedings dated 1.4.2005 on the ground that the District Collector informed the respondent Corporation by D.O.Lr.No.F3/ 1106/98, dt.2.4.2004 that a land grabbing case was filed before the Special Court in LGC No.167/97 against the illegal encroachers and the same is pending.

It is brought to the notice by the learned counsel for the petitioner that having considered an identical issue, a Division Bench of this Court in W.A.No.61 of 2000 permitted the appellant therein to construct the building at his own cost and risk subject to furnishing an undertaking to that effect. It is also brought to the notice of this Court that several other writ petitions have been disposed of in terms of the order of the Division Bench in W.A.No.61 of 2000.

Learned standing counsel appearing for the respondent Corporation does not dispute the said fact.

Accordingly, the following the decision of the Division Bench in W.A.No.61 of 2000 the impugned order dated 1.4.2005 is set aside and the writ petition is disposed of with a direction to the respondent to consider the building application of the petitioner that may be resubmitted complying with all the required formalities by paying the prescribed fee, in accordance with law, subject to the condition that the petitioner furnishes an undertaking before the respondent stating that in case LGC No.167 of 1997 pending on the file of the Special Court is decided in favour of the Government, the petitioner shall remove the structures without claiming any equitable relief. It is made clear that any such constructions made by the petitioner are at her own cost and risk.

The writ petition is accordingly disposed of. No costs.

V.ESWARAIAH, J.

21.4.2006

kpr